**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

MARVIN CLYDE MAGEE, JR.   PLAINTIFF

V.   CIVIL ACTION NO. 3:06-541 HTW-
                                                                          LRA

GEORGE W. BUSH, et al.   DEFENDANTS

<u>ORDER DENYING REMAND</u>

This cause comes before the court on plaintiff's motion to remand pursuant to

Title 28 U.S.C. § 1447(c).[1] The plaintiff Marvin Clyde Magee, Jr., has failed to present

any legally cognizable reason why this matter should be remanded to state court. This

case originates from an action for judicial review of a final agency decision by the Farm

Service Agency of the United States Department of Agriculture. Having considered the

applicable law and the submissions of the parties, this court clearly has original

jurisdiction of this matter pursuant to Title 28 U.S.C. §§ 1331(a)[2] and 1346(a)(1),[3] since

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[1]Title 28 U.S.C. § 1447(c) provides in pertinent part: If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded.

[2]Title 28 U.S.C. § 1331 (a) provides in pertinent part: The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

[3]Title 28 U.S.C. § 1346 (a) provides in pertinent part: The district courts shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of: (1) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected . . .

judicial review falls under the Administrative Procedure Act, Title 5 U.S.C. §§ 701, *et*

seq. Consequently, this court hereby denies plaintiff's motion to remand this case to

the Circuit Court of Smith County, Mississippi.

      SO ORDERED, this the 12th day of September, 2007.

                          s/ HENRY T. WINGATE
                          CHIEF UNITED STATES DISTRICT JUDGE

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